SUPREME COURT OF THE UNITED STATES.

IN THE MATTER OF THE PETITION OF U. S. JOINS, FOR A WRIT OF CERTIORARI AND WRIT OF PROHIBITION AGAINST THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, AND JUDGES AND CLERK THEREOF.

MOTION.

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States, and the Court:

And now comes U. S. Joins, and, upon the showing made by the accompanying petition for a writ of *certiorari* and for a writ of *prohibition* against the Choctaw and Chickasaw Citizenship Court, and each of the judges and the clerk thereof, wherein he shows that on the 8th day of March, 1898, in the United States Court for the Southern District of the Indian Territory, and at a regular term thereof, and upon appeal from the Commission of the United States to the Five Civilized Tribes of Indians, (known as the Dawes Commission), and in cause pending on the docket of said Court entitled and styled U. S. Joins *versus* Chickasaw Nation, he recovered judgment final against said Nation identifying and establishing the citizenship of said Joins as a member by blood of the Chickasaw Nation or tribe of Indians, and wherein he shows that the said Choctaw and Chickasaw Citizenship Court, on the 17th day of December, 1902, without authority of law and without jurisdiction or power so to do, and in violation of the Constitution of the United States, did make and cause to be entered a decree, whereby and by reason whereof

and without notice to petitioner, the said judgment of the United States Court for the Southern District of the Indian Territory, in favor of your petitioner, by the terms of said decree of said Citizenship Court was cancelled, set aside and held for naught; and wherein it is shown that the said decree of said Citizenship Court cannot be reviewed by appeal or writ of error; and wherein it is shown, as a result of said decree of said Citizenship Court the petitioner has been deprived of the right to have his name enrolled as a member of the tribe of Chickasaw Indians, and has been deprived of valuable property rights; and the said U. S. Joins does now present this his motion to your honorable Court that he be granted leave to file herein the accompanying petition for the writ of *prohibition*, and the writ of *certiorari*, and that the said writs issue, as in said petition prayed for, and that he have such other relief as to your honorable Court may seem just and in accordance with the requirements of the law.

Wherefore, the said U. S. Joins respectfully prays your honorable Court that an order be made granting this motion and directing the issuance of the writ of *prohibition*, as prayed for in the said petition; also, that your honorable Court direct the issuance of a writ of *certiorari* to bring up the record referred to in said petition, that the said record may be considered upon the said petition.

WM. I. CRUCE AND
CALVIN L. HERBERT,
Attorneys and Counsel for the said Petitioner, U. S. Joins.

[Endorsed:] Supreme Court of the United States of America, in the matter of the petition of U. S. Joins for a writ of *prohibition*. Motion for leave to file petition for writ of *prohibition*, and for *certiorari*. William I. Cruce and Calvin L. Herbert, Attorneys for Petitioner, U. S. Joins.

In the Supreme Court of the United States.

IN THE MATTER OF THE PETITION OF U. S. JOINS FOR A WRIT OF CERTIORARI AND WRIT OF PROHIBITION AGAINST THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT.

PETITION FOR WRIT OF CERTIORARI AND WRIT OF PROHIBITION.

To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States of America, and to the Court:

Now comes U. S. Joins, the petitioner herein, and complaining against the Hon. Spencer B. Adams, Chief Judge, and the Hon. Walter L. Weaver, Associate Judge, and the Hon. Henry S. Foote, Associate Judge, of the Choctaw and Chickasaw Citizenship Court, and most respectfully represents and shows to this honorable Court—

1st. That on the tenth day of June, 1896, the Congress of the United States enacted a law conferring upon the Commission of the United States to the Five Civilized Tribes of Indians the right and power to entertain applications of all those claiming to be members of said tribes and to pass upon and settle the same.

See U. S. Statutes, 1 Sess., 54 Cong., 1895–6, page 339.

That said Act, as aforesaid, in part reads as follows:

"The said Commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any

of said nations, and after such hearing they shall determine the right of such applicant to be admitted and enrolled; *Provided, however,* That such application shall be made to such commissioners within three months after the passage of this act. The said commission shall decide all such applications within ninety days after the same shall be made. That in determining all such applications said Commission shall respect all laws of the several nations or tribes not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages and customs of each of said nations or tribes; *and provided, further,* that the rolls of citizenship of the several tribes, as now existing, are hereby confirmed, and any person who shall claim to be added to said rolls as a citizen of either of said tribes, and whose right thereto has either been denied or not acted upon, or any citizen who may, within three months from and after the passage of this act, desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days after the application thereof.

"In the performance of such duties said Commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses and to send for persons and papers, and all depositions and affidavits and other evidence in any form whatsoever heretofore taken where the witnesses giving said testimony are dead or now living beyond the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship, or to protect any of said nations from fraud and wrong, and the rolls so prepared by them shall be hereafter held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes; *Provided,* That if the tribe or any person be aggrieved with the decision of the tribal authorities or the Commission provided for in this act, it or he may appeal from such decision to the United States district court; *Provided, however,* That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

"That the said Commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records, and add thereto the names of citizens whose right may be conferred under this act, and said rolls shall be, and are hereby, made rolls of citizenship of said nations or tribes, subject, however, to the determination of the United States courts as provided herein.

"The Commission is hereby required to file the lists of members as they finally approve them with the Commissioner of Indian Affairs, to remain there for use as the final judgment of the duly constituted authorities. And said Commission shall also make a roll of freedmen entitled to citizenship in said tribes, and shall include their names in the list of members to be filed with the Commissioner of Indian Affairs."

And your petitioner further represents that pursuant to, and acting under, the aforesaid act that the said Commission, known as the Dawes Commission, made and promulgated a rule of practice and procedure to be observed before it, as follows:

"Any person desiring that said Commission shall pass upon his claim for citizenship in any of said tribes, under the provision of this act, must make application in writing, signed and sworn to, containing a particular statement of the grounds upon which his claim is based, and accompanied by such evidence, in the form of affidavits, depositions, or record evidence, as he may desire to have considered in support of his claim, all to be forwarded under seal to the Commission at Vinita, I. T., before the 10th day of September, 1896.

"The application should state facts sufficient, if true, to show that the applicant is entitled to citizenship. The applicant must, at the same time, furnish the chief Governor of the Nation in which citizenship is sought, a copy of such application, and evidence, and shall furnish to the Commission evidence of this fact. Such chief, or governor, must within thirty days thereafter, furnish the Commission his

answer thereto, signed and sworn to by some duly authorized officer of this Government, and accompanied by such evidence in the form of affidavits, depositions or record evidence as he may desire the Commission to consider in support of his answer."

Petitioner states that under the terms of said Act of June 10, 1896, as aforesaid, no provision was made for serving either the chief of the Choctaw or Chickasaw Nations or the nations themselves with notice of said applications to said Dawes Commission and represents that the rule of practice and procedure referred to, made and adopted and promulgated by said Commission, as aforesaid, was made, to the end that the nation or tribe to whom applicants claimed citizenship should have due notice of such application and an opportunity to defend against the same.

2d. Your petitioner would further represent and show to this honorable Court that under the terms and conditions of said Act of Congress of June 10, 1896, as aforesaid, that he applied to said Commission of the United States to the Five Civilized Tribes of Indians, hereafter called the Dawes Commission, to be recognized and identified as a member of the tribe of Chickasaw Indians by blood; and that he complied with the rules of practice and procedure prescribed by said Commission, as aforesaid, and did serve the Governor of the Chickasaw Nation with a literal copy of his said application and evidence in support thereof, and in all things complied with the rules of said Commission and said act referred to *supra*.

And your petitioner further represents that the Chickasaw Nation appeared before said Commission and denied the right of this petitioner to be enrolled or recognized as a member of the tribe of Chickasaw Indians by blood, and that the said Commission heard the evidence offered, for and against said application, and passed upon the same and

denied the application of your petitioner to be enrolled as a member of said tribe ; whereupon your petitioner appealed from the decision of the said Dawes Commission to the United States court for the Southern District of the Indian Territory, sitting at Ardmore, and that his appeal was begun and perfected within the time mentioned in the said Act of Congressof June 10, 1896.

And your petitioner further represents and shows to this honorable Court that at a regular term of said United States Court for the Southern District of the Indian Territory, sitting at Ardmore, and on, to wit, the eighth of March, 1898, your petitioner recovered in said court, against the Chickasaw Nation, a judgment wherein the said court rendered and caused to be entered a decree that your petitioner, U. S. Joins, and his daughter, Virgie Joins, should be admitted as members of the tribe of Chickasaw Indians by blood, and wherein said court directed that a certified copy of said judgment be transmitted by the clerk of said court to the said Commission, and directed the said Commission to place the names of your petitioner and his said daughter, Virgie Joins, upon the roll of Chickasaw citizenship, to be made by the said Commission in accordance with the said Act of June 10, 1896. A certified copy of the judgment rendered in favor of your petitioner, as aforesaid, is attached hereto and identified as Exhibit A and made a part of this petition.

3d. Your petitioner would further represent and show to this honorable Court that on, to wit, the 1st day of July, 1898, the Congress of the United States passed an act, under and by virtue of the terms of which, all persons who had applied to the said Commission to be recognized and enrolled as members of any of the Five Civilized Tribes and whose right had been denied by the Commission and an appeal taken to the United States court in the Indian Ter-